

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

TSDC, LLC, et al.)	CASE NO. 1:14-cv-02699-DCN
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	PLAINTIFF’S MOTION TO
ANN (ANTOINETTE) GALVAN, et al.)	CONDUCT DEPOSITIONS BY
)	TELEPHONIC MEANS
Defendants.)	

Pursuant to Fed.R.Civ.P. 30(b)(4), Plaintiff TSDC, LLC (“Plaintiff”) respectfully moves the Court for an order allowing Plaintiff to conduct several depositions in this matter by telephonic means. As discussed more fully in Plaintiff’s Motion to Extend Fact Discovery Deadline (E.C.F. # 73), Plaintiff and Defendants Antoinette and Gloria Galvan (the “Defendants” and collectively, the “Parties”) have agreed that certain depositions will be conducted after the current October 31, 2016 discovery deadline, but difficulties have arisen as a result of Defendants’ unwillingness to stipulate to telephonic depositions of out of state nonparties.

Plaintiff has proposed taking the depositions of Zazzle, Inc. (“Zazzle”) and CaféPress, Inc. (“CaféPress”) by telephonic means in light of the fact that Zazzle is located in Redwood City, California, and the relevant witness from CaféPress is located in San Francisco, California. The Parties’ trial counsel are located in Cleveland, Ohio, and Defendants’ additional counsel is located in Long Beach, California, approximately 400 miles from San Francisco. Moreover, the depositions themselves should be brief, as they are for the limited purpose of authenticating sales documents produced in response to Plaintiff’s subpoenas and to obtain full discovery of Defendants’ sales and profits from those sources.

To date, Defendants have refused to stipulate to the taking of the aforementioned depositions by telephonic means and have not expressed a reason for their refusal, nor have they given Plaintiff any indication that they stand to be prejudiced by a telephonic deposition. In fact, Plaintiffs have offered to arrange for a location for the deposition where Defendants' counsel, and the witness, could attend in-person with the Court reporter, thereby allowing Defendants' counsel to cross-examine the witness in-person. Defendants have indicated that, even in this scenario, they would still object to the depositions being taken telephone. In other words, Defendants object to Plaintiff's taking telephonic depositions even though Defendants' counsel would have the opportunity to be in the room with the witness in-person, assuming the subpoenaed party has no objection to such an arrangement.

Telephonic depositions for Zazzle and CaféPress, and any other out-of-state nonparties whose primary purpose for deposition would be authenticating documents produced pursuant to a subpoena, should be permitted to take place by telephonic means to save the Parties what would be a heavy expenditure of time and expense to travel far distances for short depositions. Another basis for permitting the aforementioned depositions to proceed by telephone is the fact that counsel for CaféPress has indicated that she would not agree to produce the witness from CaféPress by any other means. Finally, Defendants' Long Beach counsel has been permitted to attend, and has in fact attended, almost every status conference in this case by telephone. Similarly, Defendants have had a standing pass from having to travel to Cleveland and, consequently, have attended all mediation sessions, and every other court session where client presence is required, by telephone. Plaintiff has never once objected to any of the aforementioned telephonic appearances.

Thus, Plaintiff respectfully requests this Court issue an Order permitting the Parties to conduct the depositions of CaféPress and Zazzle, and any other similar depositions, by telephonic means.

Respectfully submitted,

/s/ William A. Doyle

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CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of October, 2016, I caused the foregoing to be electronically served with the Court's electronic filing system to all attorneys indicated on the electronic filing receipt.

/s/ William A. Doyle
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